

LOUISIANA PUBLIC SERVICE COMMISSION
MINUTES FROM APRIL 26, 2012
OPEN SESSION
(corrected)

MINUTES OF APRIL 26, 2012 OPEN SESSION OF THE LOUISIANA PUBLIC SERVICE COMMISSION HELD IN BATON ROUGE, LOUISIANA. PRESENT WERE CHAIRMAN FOSTER CAMPBELL, VICE CHAIR JIMMY FIELD AND COMMISSIONERS LAMBERT BOISSIERE, ERIC SKRMETTA AND CLYDE HOLLOWAY. ALSO PRESENT WAS EVE KAHAO GONZALEZ.

Open Session of April 26, 2012, convening at 9:15 A.M. and adjourning at 12:06 P.M., Natchez Room, 602 N. 5th Street, 1st Floor, Baton Rouge, Louisiana, with the above-named members of the Commission and Secretary Eve Kahao Gonzalez.

Ex. 1 Announcements

Commissioner Campbell praised Entergy for enacting a voicemail system alerting customers of outages in their area, or impending outages in their area, along with an estimated time of reconnection. He further encouraged all other utilities, investor owned and cooperatives, to establish a similar procedure and asked that they report back at the May B&E. Commissioner Field joined in the commendation.

Commissioner Field reminded everyone that the Pre B&E function for May will be held May 22, 2012 from 6pm – 8pm at Abacus and the B&E will begin at 9:30 am on May 23, 2012 at the Lafayette Consolidated Government Building Council Auditorium.

Ex. 2 **U-32210** - South Louisiana Electric Cooperative Association, D/B/A SLECA, ex parte. In re: 2012 FRP Annual Report for test year ending November 2011, pursuant to Order U-31835.

In re: Discussion and Possible Vote on Motion for Entry of Order Accepting Uncontested Joint Report.

On motion of Commissioner Field, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the report and draft order as filed into the record on April 15, 2012.

Ex. 3 **T-32175** - Louisiana Public Service Commission vs A Maloney Moving & Storage, Inc. (Harahan, Louisiana). In re: Cancellation of Common Carrier Certificate Number 7283 for failure to maintain tariff on file with the Commission as required by General Order 2 dated July 21, 1921 and to pay a citation fee of TWENTY FIVE DOLLARS (\$25.00).

On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the ALJ Recommendation and 1) find A Maloney Moving & Storage, Inc. be guilty of failing to maintain a tariff on file with the Commission; 2) Cancel Common Carrier Certificate 7283, previously issued to A Maloney Moving & Storage, Inc., due to A Maloney Moving & Storage, Inc.'s failure to maintain a tariff on file with the Commission; and 3) Require A Maloney Moving & Storage, Inc. to pay the \$25 citation fee if A Maloney Moving & Storage, Inc. applies for reinstatement

Ex. 4 **T-32201** - Louisiana Public Service Commission vs. Select Energy Services, LLC (Gainesville, Texas). In re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended, by operating Intrastate beyond the scope of authority in LPSC Number 7454 on forty-six (46) counts; allegedly occurring on or about September 1, 2011 through October 31, 2011.

In re: Discussion and possible vote on Stipulated Agreement pursuant to Rule 57.

On motion of Commissioner Field, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to exercise its original and primary jurisdiction pursuant to Rule 57.

On motion of Commissioner Field, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the agreement between Staff and the Carrier, dated April 5, 2012, wherein the Carrier agreed to

plead guilty and agreed to pay a fine of \$2,000.00, per count, with \$1,500.00 per count being suspended, subject to Select Energy Services, LLC not committing any additional violations within the following 12 months, from the date the agreement was executed herein and agreed that the unsuspended portion of the fine and the citation fee, for a total of \$23,025.00, which must be paid within 15 days from the date of the issuance of the Order herein.

Ex. 5 **T-32241** - Louisiana Public Service Commission vs. Bolden's Hope St. Towing (Shreveport, Louisiana). In re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended and General Order dated March 26, 2010, by operating Intrastate without LPSC authority on one count and for exceeding state prescribed rates; allegedly occurring on or about February 17, 2012.

In re: Discussion and possible vote on Stipulated Agreement pursuant to Rule 57.

On motion of Commissioner Field, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to exercise its original and primary jurisdiction pursuant to Rule 57.

On motion of Commissioner Campbell, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the agreement between Staff and the Carrier, dated March 8, 2011, wherein the Carrier agreed to plead guilty and agreed to pay a fine of \$1,000.00, per count, with \$500.00 per count being suspended, subject to Bolden's Hope St. Towing not committing any additional violations within the following 12 months, from the date of the executed stipulated agreement and agreed that the unsuspended portion of the fine and the citation fee, for a total of \$525.00, would be paid within 15 days of the issuance of the Order herein.

Ex. 6 **U-31196** - Entergy Louisiana, LLC and Entergy Gulf States Louisiana, L.L.C., ex parte. In re: Application of Entergy Louisiana, LLC for Approval to Purchase Power Block Two of the Acadia Energy Center, and Joint Application of Entergy Louisiana, LLC and Entergy Gulf States Louisiana, L.L.C. for Approval to Participate in Certain Related Contracts for the Purchase of Capacity and Electric Power and for Cost Recovery.

In re: Discussion and possible vote to hire Exeter Associates., Inc. to assist Staff with the review of Entergy Louisiana, LLC and Entergy Gulf States Louisiana, L.L.C.'s Compliance Filing and Supplemental Application in Docket No. U-31196.

On motion of Commissioner Field, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to accept the Staff Recommendation and authorize the expansion of Exeter's scope of work in this proceeding to include review of the Compliance Filing and Supplemental Application filed February 29, 2012, and approve Exeter's budget proposal of \$35,500, consisting of \$32,500 for consulting fees and \$3,000 for expenses.

Ex. 7 **U-31364** - Bellsouth Telecommunications, Inc. D/B/A AT&T Southeast D/B/A AT&T Louisiana versus Image Access, Inc. D/B/A New Phone; Budget Prepay, Inc. D/B/A Budget Phone D/B/A Budget Phone, Inc.; BLC Management, LLC D/B/A Angles Communications Solutions D/B/A Mexicall Communications; dPi Teleconnect, LLC; and Tennessee Telephone Service, Inc. D/B/A Freedom Communications USA, LLC.. In re: Consolidated Proceeding to Address Certain Issues Common to Dockets U-31256, U-31257, U-31258, U-31259, and U-31260.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the ALJ Recommendation as follows: 1) that when AT&T extends cashback offerings to its retail customers for more than 90 days, the promotional rates shall be available for resale to the Resellers at the wholesale discount. A Reseller that requests a telecommunications service is to be billed the standard wholesale price of the service. This equals the standard retail price of the service discounted by the resale discount rate established by this Commission. The Commission has previously established the resale discount rate as 20.72%. When the Reseller requests a valid cashback promotional credit, the Reseller receives a bill credit in the amount of the face value of the retail cashback benefit, discounted by the resale discount rate of 20.72%. 2) That if the Resellers are entitled to receive a promotional credit for the LCCW, the Resellers are entitled to a credit of the LCCW, less the applicable resale discount rate. 3) That word-of-mouth promotions are not a "telecommunications service". The word-of-mouth promotion is the result of AT&T's marketing referral program and is not subject to resale.

- Ex. 8 **U-32088** - Entergy Louisiana LLC, ex parte. In re: Application for Relief from Prior Directive and Order Related to the Proposed Purchase of Entergy Power LLC's interest in Unit 2 of the Independence Steam Electric Station (ISES).
- In re: Discussion and possible vote on Unopposed Motion for Direct Consideration by the Commission Pursuant to Rule 51 and 57 of the LPSC's Rules of Practice and Procedure.**
- On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to bring this matter up under Rules 51 and 57 of the LPSC's Rules of Practice and Procedure.
- On motion of Commissioner Holloway, seconded by Commissioner Field, and unanimously adopted, the Commission voted to rescind the Commission's February 2008 directive requiring ELL to exercise its option to purchase an ownership interest in the Independence Steam Electric Generation Station Unit 2.
- Ex. 9 **U-32187** - Dixie Electric Membership Corporation ("DEMCO"), ex parte. In re: 2011 FRP Annual Report Filing.
- In re: Discussion and Possible Vote on Joint Report and Motion for Entry of Order Accepting the Report.**
- On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the report and draft order as filed into the record on March 29, 2011.
- Ex. 10 **U-32222** - Washington-St. Tammany Electric Cooperative, Inc. (WSTE), ex parte. In re: Petition for Expedited Approval of Power Supply and Services Agreement Extension.
- In re: Discussion and possible vote to hire outside consultant to assist Staff in this matter.**
- On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to retain the consulting firm of Henderson Ridge to assist Staff in this matter for a budget of \$17,500 for professional fees plus expenses not to exceed \$1,500, for a total budget of \$19,000.
- Commissioner Holloway complained to General Counsel of the tardiness of issuing RFPs.
- Ex. 11 **U-32224** - Claiborne Electric Cooperative, Inc., ex parte. In re: Petition for Expedited Approval of Power Supply and Services Agreement Extension.
- In re: Discussion and possible vote to hire outside consultant to assist Staff in this matter.**
- On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to retain the consulting firm of Henderson Ridge to assist Staff in this matter for a budget of \$17,500 for professional fees plus expenses not to exceed \$1,500, for a total budget of \$19,000.
- Ex. 12 **U-31407** - Huntington Properties, LLC d/b/a Huntington Water & Sewer Company, ex parte. In re: Request for Application for Rate Increase of water and sewerage.
- In re: Discussion and possible vote on ALJ Final Recommendation.**
- In re: Request for Oral Argument received by Huntington Properties, LLC.**
- Last month's Ex. 10.**
- Counsel for Huntington Properties, LLC, Andy Ezell, waived the request for Oral Argument previously filed.
- Commissioner Campbell offered a motion to accept ALJ Recommendation. Commissioner Field seconded this motion. However, Commissioner Holloway offered a substitute motion.

On motion of Commissioner Holloway, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the ALJ Recommendation with the following amendment: the water usage included in the minimum monthly customer charge be decreased from 2,700 to 2,000 gallons.

- Ex. 13 **R-31825** - Louisiana Public Service Commission, ex parte. In re: Possible Amendment to Section 501 A (c) and (e) of the Regulations for Competition in the Local Telecommunications Market (White Page Directory Distribution Requirement).

In re: Discussion and possible vote on Staff's Final Recommendation.

Commissioner Field read a proposed motion into the record to amend Staff's Final Recommendation.

The proposed motion amended Section 501 (A) of the Local Competition Regulations to add Subsection (1)(e)(4) which shall read as follows: "A TSP shall rely on the most recent election of a customer who has chosen to "opt-in" to receive the directory until that customer affirmatively acts to alter their election, or the customer no longer resides at the same address."

Item No. 13 was then passed until the Business and Executive Session to be held in May.

- Ex. 14 **R-30738** - LPSC ex parte. In re: Merchant Transmission Investment in Louisiana.
U-28155 - Entergy Louisiana, LLC and Entergy Gulf States Louisiana, L.L.C. In re: Application for Independent Coordinator of Transmission.
U-32148 - Entergy Louisiana, LLC and Entergy Gulf States Louisiana, L.L.C. In re: Application for MISO membership.

In re: Discussion and possible vote to approve updated budgets for consultants and counsel.

On motion of Commissioner Field, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to approve the updated budgets for consultants and counsel as follows: J. Kennedy and Associates' net budget is for \$120,000, plus \$12,000 in expenses; Patterson Consulting's budget is for \$140,000, plus \$30,000 in expenses; Exeter Associates' net budget is for \$68,000 in fees, and it requires no additional budgeted expenditures; Stone Pigman's net budgeted fees are \$385,739, and it requires no additional budgeted expenditures. These budgeted fees and expenditures are netted against remaining increments for fees and expenses from budgets previously approved by the Commission.

- Ex. 15 Discussion and possible vote to amend General Order dated 12-28-2000

Staff requested to review and reopen the two general orders (General Order dated April 23, 2011 and General Order dated December 28, 2000) to assure that they are consistent with General Order R-31953 dated November 22, 2011 and bring this issue back up in May.

- Ex. 16 Directive to Staff to open a rulemaking docket to establish a standard rate of return on equity for investor-owned electric and gas utilities. This standard will be used as the authorized return for those utilities within 180 days after it is established absent a filing and demonstration by any affected utility that a different rate is warranted. Among other factors the established standard return should take into consideration the following recent developments: stabilization of capital markets, lower interest rates and long-term treasury yields, reduced risk to utilities resulting from advance approval of major capital additions, increased use of riders allowing immediate recovery of expenditures, and the use of securitization to fund storm repairs and cancellation costs. Staff is additionally directed to issue RFPs within 30 days seeking outside consultants and counsel to assist in this docket.

At the request of Commissioner Campbell.

Last month's Ex. 18

PASSED

Ex. 17 Report by utilities on plans for natural gas usage given its decrease in price as well as the effect on pricing of exporting natural gas as requested by Commissioners Campbell and Field at the March B&E.

PASSED

Commissioner Skrmetta directed Brad Mittendorf to coordinate with Staff the presentation by American National Gas Association.

Ex. 18 Possible Executive Session pursuant to La RS 42:17 to discuss litigation strategy regarding Louisiana Public Service Commission, et al V. Louisiana State Legislature, Docket No. 2011-CA-0943, Louisiana Court of Appeal, First Circuit.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to go into Executive Session.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to come out of Executive Session.

Ex. 19 1) Reports
2) Resolutions
3) Discussions

Commissioner Skrmetta directed Staff to investigate the effect of the LPSC causing EGSL and ELL to leave the System Agreement and respond back to the Commission at the most reasonable time.

Commissioner Holloway reminded everyone that a technical conference for Docket R-31417 will be held immediately after the B&E is adjourned.

Commissioner Campbell told everyone of his experience in driving a natural gas fueled truck in the past few days.

Mrs. Brenda Headlee of the LPSC Do Not Call Program reported on the work that the DNC program has done and the issues that have come up regarding identity theft which have been discussed with the Attorney General's office.

Commissioner Skrmetta directed Staff to open a dialogue with the AG's office to quantify data in order to possibly request the enactment of legislation.

Commissioner Campbell directed Staff to look into the FL statute in which fraudulent calls to anyone over the age of 65 are deemed a felony.

Commissioner Holloway directed Staff to make 2,000 gallons the minimum usage amount in all future water rate cases.

Commissioner Field directed Staff to begin issuing RFPs as they see necessary to expedite the hiring process.

Ex. 20 **R-26968** - Louisiana Public Service Commission, ex parte. In re: Review of the General Order dated March 12, 1999. (Pole Attachment Rates).

In re: Discussion of possible reopening of rulemaking proceeding.

At the request of Commissioner Holloway.

On motion of Commissioner Boissiere, seconded by Commissioner Campbell, with Commissioners Skrmetta and Holloway concurring and Commissioner Field temporarily absent, the Commission voted to direct Staff to reopen the instant rulemaking proceeding and to allow additional interested parties an opportunity to file notices of intervention.

Ex. 21 **R-31417** - LPSC, ex parte. In re: Re-examination of the Commission's Net Energy Metering Rules found in General Order No. R-27558, dated November 30, 2005 (the “Net Metering Order”)

In re: Discussion and possible vote to hire an outside consultant to assist Staff in this matter.

At the request of Commissioner Field.

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to reissue this RFP in hopes of obtaining more applicants and more reasonable bids.

On motion of Commissioner Holloway, seconded by Commissioner Field, and unanimously adopted, the Commission voted to allow a 20 day response and further ordered Staff to reissue this RFP immediately in order that they may vote at the May B&E.

Ex. 22 Entergy Louisiana, LLC Formula Rate Plan filing for Test Year 2011

In re: Discussion possible vote to expand the scope of work for Exeter Assoc., Inc. to include review of 2011 filing in existing budget.

At the request of Commissioner Field.

On motion of Commissioner Field, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and authorize Exeter to assist Staff with the review of ELL’s 2011 FRP filing using its remaining budget as needed.

On motion of Commissioner Skrmetta, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to adjourn the meeting.

MEETING ADJOURNED

The next Business and Executive Session will be held May 23, 2012 at 9:30 a.m. in Lafayette, Louisiana.